IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 7544 of 2007(W)

PETITIONER:

K.RAJAPPAN, RETIRED PRESS MANAGER,
KERALA AGRICULTURAL UNIVERSITY, VELLANIKKARA,
NOW RESIDING AT KAYALIL HOUSE,
KERALA AGRICULTURAL UNIVERSITY P.O.,
VELLANIKKARA, THRISSUR DISTRICT.

BY ADV. SRI.KRB.KAIMAL (SR.)
SRI.B.UNNIKRISHNA KAIMAL
SRI.V.MADHUSUDHANAN
SRI.PRAMJI PAUL VAZHAPPILLY

RESPONDENTS:

1. THE KERALA AGRICULTURAL UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
AGRICULTURAL UNIVERSITY OFFICE, VELLANIKKARA,
THRISSUR DISTRICT.

2. THE DEPUTY DIRECTOR OF LOCAL FUND AUDIT,
KERALA AGRICULTURAL UNIVERSITY,
VELLANIKKARA, THRISSUR.

3. THE CONTROLLER, KERALA AGRICULTURAL
UNIVERSITY, VELLANIKKARA, THRISSUR.

BY GOVERNMENT PLEADER SMT.M.R.SREELATHA.
SHRI.RENJITH THAMBAN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.7544 of 2007

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Dated this the 15th day of October, 2007

J U D G M E N T

The petitioner retired from the service of the Kerala Agricultural University as a Press Manager on 31.10.2005. He is receiving pension thereafter. At the time of retirement, he was drawing the scale of pay of Rs.10000-15150. However, in view Ext.P11 order, the petitioner has been given retirement benefits in the scale of pay Rs.7800-12975 only on the ground that the grade promotion granted to him on 12.4.1989 was irregular. The question of validity of the petitioner's grade promotion was the subject matter of an audit objection by the Accountant General, which was ultimately settled in favour of the petitioner by Ext.P3 communication of the Accountant General to the Comptroller of the University, whereby the audit objection raised against the pay fixation of the petitioner was not pursued further. Pursuant to Ext.P3, by Ext.P5 subsequent revisions of pay of the petitioner

were regularised and granted. However, the Deputy Director of Local Fund Audit still maintains the view that the petitioner's grade promotion is irregular and therefore, after deleting the grade promotion subsequent revisions of pay has to be refixed accordingly. Ext.P11 order has been passed pursuant to Exts.P6 and P9. Therefore, the petitioner seeks the following reliefs:

> "i) a writ of certiorari quashing Exts.P-6, P-9 and P11 orders of the 2nd respondent.
>
> ii) a writ of certiorari quashing the endorsement made by the 3rd respondent on Ext.P-14 option.
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> iii) a writ of mandamus to the respondents to fix the pay of the Petitioner in the scale of Rs.16650-23200 with effect from 1-7-2004 with monetary benefits of arrears of salary in terms of Ext.P-13 Pay Revision Order.
>
> iv) a writ or mandamus to the Respondents to refix the Pension of the Petitioner based on the pay to be fixed in the scale of Rs.16650-23200 and to grant consequential Pensionary benefits including Death cum Retirement Gratuity with normal interest on account of delay in payment of terminal benefits.
>
> v) a writ of mandamus to Respondents 1 and 3 to consider and issue appropriate orders on Ext.P-15 representation."

2. I have heard the learned counsel for the petitioner, the learned Standing Counsel appearing for the University and the learned Government Pleader.

3. It is seen that the University itself had taken a decision not to reopen the grade promotions and fixations of pay

already granted deviating from the Government norms prior 1.3.1999. In fact the University had decided to regularise the same by giving the petitioner and others fitment benefits as a special case, to ensure financial benefit to all categories of staff while implementing Central Parity. The University being an autonomous body, has taken a final decision to regularise the irregular grade promotions. Thereafter, the Government Auditor cannot again rake up the irregularity to deny grade promotion. This is especially so, since the Accountant General had already dropped similar audit objection. Perhaps the Government can take action against the University for deviating from the Government norms. But that cannot affect the rights of the employees. In respect of the very same subject matter, I had taken a view in favour of a similarly placed petitioner in Ext.P12 judgment, which has become final. Here, grade promotion was granted to the petitioner as early as on 12.4.1989. The petitioner retired on 31.10.2005. As such, the Government Auditor cannot now rake up the issue to deny the petitioner pension in the higher scale of pay. In the above circumstances, I am satisfied that the impugned orders are unsustainable.

Accordingly, I quash them.

4. The petitioner has got another case that in view of the impugned orders, the petitioner has not been given revised scale of pay as per Ext.P13 pay revision order. Since I have quashed the impugned orders, the natural consequence would be that the petitioner would be entitled to pay revision accordingly. The pay of the petitioner shall be refixed and the petitioner shall be given arrears due to him on such pay revision. Petitioner's pension shall be refixed in the scale of pay available to him in accordance with the scale of pay as on the date of his retirement as refixed in accordance with the subsequent pay revision. Orders in this regard shall be issued within two months from the date of receipt of a copy of this judgment. Needless to say, arrears of pensionary benefits shall also be disbursed to the petitioner within the above said period.

The writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.